IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1409 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DALPATSINH SHERSINH RATHOD

Versus

STATE OF GUJARAT

Appearance:

MR AP RAVAL for Petitioner

MR VM PANCHOLI APP for Respondent

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 09/05/2002

ORAL JUDGEMENT

1. This is an application under Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside Criminal Case No.8186 of 1997 pending before the Criminal Court at Palanpur for the offences under the Bombay Prohibition Act. It has been contended by the learned advocate for the petitioner that no offence has been committed by him and though the chargesheet has already been filed, even the papers attached to the chargesheet disclose no evidence against the petitioner.

It is also contended that the involvement of the petitioner in the aforesaid offences has not been established and, therefore, the present application may be allowed and the aforesaid case, which has been culminated in Criminal Case No.8186 of 1997 may be quashed and set aside.

2. Rule was issued and Mr.V.M.Pancholi, learned APP appears for the respondent - State.

3. I have heard the learned advocates for the parties and perused the papers.

4. During the course of hearing and perusal of the papers submitted with the application, it clearly transpires that the involvement of the petitioner in the aforesaid offences has not been established to any case. Even mere allegation against the petitioner has not been found in the said papers. Except the statement of co-accused Mohanlal, there is no further material to convict the petitioner to crime in question. There is no material collected and chargesheet has already been filed. In that event, this is a fit case for exercising the inherent jurisdiction under Section 482 of the said Code.

5. In above view of the matter, this application is allowed. Criminal Case No.8186 of 1997 before the Criminal Court, Palanpur, in Banaskantha - District, is hereby quashed and set aside. Rule is made absolute to the aforesaid extent.

[D. P. BUCH, J.]

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